IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 862 OF 2005

IN

WRIT PETITION NO. 304 OF 2004

SHRI INACIO FERNANDES, PANAJI GOA. ....Applicant

Versus

THE STATE OF GOA, THRO'THE CHIEF SECRETARY AND 2 ORS. ....Respondents

Mr. M.S. Sonak with Mr. A. D. Bhobe, Advocates for the Applicant.
Shri S.R. Rivonkar, Govt. Advocate for State.
Shri V.P. Thali, Advocate for R.2 and 3.
Shri G. Pai in person.

Coram:- D. D. SINHA &
N. A. BRITTO, JJ.

Date:- 22nd November, 2005

P.C.:

Heard Mr. Sonak, the learned counsel for the Applicant/Original Respondent No.4.

2. Misc. Civil Application No.862/05 is moved by the Applicant/R.4 in the petition, seeking certain modifications in the Order dated 25th October, 2005 passed by us in the Writ Petition. We have considered the contentions canvassed by the learned counsel Mr. Sonak as well as by learned counsel Mr. Thali for Respondents No.2 and 3 and perused the Order dated 25th October, 2005.

3. On perusal of the Order, we are of the view that there is no case made out for modification, except that the present applicant/R.4 was directed to file an undertaking within three days from 25th October, 2005

that within thirty days freom the date of the Order, the pillars/columns within the front set-back shall be removed and the balconies shall be restored in accordance with the approved plans.

4. Mr. Sonak, the learned counsel states that in view of the said undertaking, the columns and pillars are already removed. However, some more time is necessary for the purpose of complying with the other aspects mentioned in the Order and seeks further time of thirty days to remove the balconies. Mr. Sonak, the learned counsel has further stated that on 10.11.05 the present applicant has already submitted plans for regularisation/modification and prayed that the planning authority may be asked to consider the same according to law.

5. Mr. Thali, the learned counsel appearing for the Secretary, Planning & Development Authority of Panaji, Goa and the Corporation of the city of Panaji, Goa states that the application for regularisation was received by the authority on 16th November, 2005 and the same would be considered according to law applicable in this regard and decision would be taken within a reasonable time.

6. In the backdrop of the above referred facts, we grant thirty days time from today to the Applicant in the present application to take appropriate steps for removal of the balconies as undertaken by the Applicant in the undertaking. The Panaji Planning & Development Authority and Corporation of the City of Panaji though entitled to consider the application for regularisation, we expect them to consider the same strictly according to law and procedure applicable in this regard. No deviation from the statutory procedure should be made while considering the application for regularislation and while taking decision thereon by the authority.

7. With these observations, Misc. Civil Application is disposed of. Needless to mention that if the application of the applicant is favourably considered by the authorities, it is open to the petitioner as well as

Respondent No.4 to approach this Court.

D. D. SINHA, J.

N. A. BRITTO, J.

sl.